

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**September 22, 2003**

At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Raye, Associate Justice; Kolkey, Associate Justice and Guzman, bailiff.

**C041025 THE PEOPLE v. HILLER**

Cause called. R. Bruce Finch argued for appellant. Maggy Krell, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:09 a.m., the court recessed. At 10:12 a.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Kolkey, Associate Justice.

**C042214 THE PEOPLE v. INKS**

Cause called. Joe A. Dickerson argued for appellant and submitted additional citations. Mark A. Johnson, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:26 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Sims, Associate Justice.

**C042830 AULISIO, JR. v. THE SUMMIT HOMEOWNER'S ASSOCIATION, INC.**

Cause called. Therese M. Hankel argued for appellant. Kathryn Albarian argued for respondent. Cause submitted.

**C042018 COUNTY OF SAN JOAQUIN v. STATE OF CALIFORNIA et al.**

Cause called. Felicia R. Reid argued for appellant. William A. Krabbenhoft, Deputy Attorney General, argued for respondents. Cause submitted.

At 2:48 p.m., the court recessed. At 2:52 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Kolkey, Associate Justice.

**C041567 SHIRLEY v. ARMSTRONG et al.**

Cause called. Preston Shirley, appellant, argued In Pro Per. Charity Kenyon argued for respondents. Cause submitted.

At 3:12 p.m., the court recessed. At 3:16 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Kolkey, Associate Justice.

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**September 22, 2003, continued**

**C038386      MARTIN v. ALEXANDER et al.**

Robert A. Martin appeared for OSC re: failure to pay sanctions. Clerk provided appointment of counsel information if appellant is indigent. Cause continued to October 21, 2003 at 9:30 a.m.

At 3:21 p.m., the court recessed until 9:30 a.m., Tuesday, September 30, 2003.

**C041108      THE PEOPLE v. MENDEZ      (Not for Publication)**

THE COURT:

The opinion in this case, filed September 2, 2003, is modified...

This modification does not change the judgment.

The petition for rehearing is denied.

SCOTLAND, P.J.

SIMS, J.

ROBIE, J.

**C043918      CIVIC PARTNERS STOCKTON, LLC. v. THE SUPERIOR COURT OF  
SACRAMENTO COUNTY and THE CITY OF STOCKTON et al.**

**(Not for Publication)**

Let a peremptory writ of mandate issue directing the respondent court to vacate its order granting the real parties' motion for change of venue. Petitioner shall recover costs on appeal. (Cal. Rules of Court, rule 56.4(a).)

ROBIE, J.

We concur:    Blease, Acting P.J.

Hull, J.

**September 23, 2003**

**C041967      THE PEOPLE v. HOLT      (Not for Publication)**

The judgment is affirmed.

RAYE, J.

We concur:    Scotland, P.J.

Morrison, J.

**C042414      THE PEOPLE v. KASHUBA      (Not for Publication)**

The judgment is affirmed.

RAYE, J.

We concur:    Scotland, P.J.

Morrison, J.

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**September 23, 2003, continued**

- C043580      THE PEOPLE v. SNYDER      (Not for Publication)**  
The matter is remanded to the trial court for sentencing on count 4, a violation of Vehicle Code sections 23103 and 23103.5. The judgment is otherwise affirmed.  
DAVIS, J.  
We concur:    Blease, Acting P.J.  
                 Raye, J.
- C038474      SYKORA et al. v. MAGORIAN et al.      (Not for Publication)**  
The judgment is affirmed. Respondents shall recover their costs on appeal from appellants. (Cal. Rules of Court, rule 27(a).)  
SIMS, J.  
We concur:    Scotland, P.J.  
                 Robie, J.
- C040124      HINDS, a Minor, etc., et al. v. COUNTY OF SHASTA      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur:    Nicholson, Acting P.J.  
                 Raye, J.
- C042671      In re R.B.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. VONDA W. et al.      (Not for Publication)**  
The juvenile court's order is affirmed.  
SIMS, J.  
We concur:    Scotland, P.J.  
                 Robie, J.

**September 24, 2003**

- C037364      THE PEOPLE v. ELLIOTT et al.      (Not for Publication)**  
The judgment of the trial court dismissing the charges against Elliott and Perry is reversed. The matter is remanded to the trial court for further proceedings consistent with this opinion.  
HULL, J.  
We concur:    Blease, Acting P.J.  
                 Kolkey, J.

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**September 24, 2003, continued**

- C041387      THE PEOPLE v. GAVINO      (Not for Publication)**  
The judgment is affirmed.  
RAYE, J.  
We concur: Scotland, P.J.  
Morrison, J.
- C042540      THE PEOPLE v. BURNETT      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed.  
RAYE, J.  
We concur: Blease, Acting P.J.  
Morrison, J.
- C043054      THE PEOPLE v. HAYDEN JR.      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed.  
RAYE, J.  
We concur: Scotland, P.J.  
Morrison, J.
- C043553      THE PEOPLE v. CORDES      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Hull, J.
- C043829      THE PEOPLE v. LANSDON      (Not for Publication)**  
The judgment is affirmed. The court is directed to correct the abstract of judgment to list the year of the offense as 1999 and describe the offense as "embezzlement," and is further directed to forward a certified copy of the amended abstract to the Department of Corrections.  
ROBIE, J.  
We concur: Scotland, P.J.  
Hull, J.
- C040776      WHITE v. CITY OF STOCKTON et al.      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur: Nicholson, Acting P.J.  
Morrison, J.

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**September 24, 2003, continued**

**C042182      JOHNSON v. AEROJET-GENERAL CORPORATION**

**(Not for Publication)**

The judgment is affirmed. Aerojet shall recover its costs on appeal. (Cal. Rules of Court, rule 27(a).)

ROBIE, J.

We concur:    Scotland, P.J.

Blease, J.

**C043095      RAHIMI v. COUNTY OF SACRAMENTO et al.**

**(Not for Publication)**

The judgment is affirmed. Each party shall bear their own costs on appeal. (Cal. Rules of Court, rule 27 (a) (4).)

BLEASE, Acting P.J.

We concur:    Davis, J.

Morrison, J.

**C042760      In re ASHLEY M. et al.; SAN JOAQUIN COUNTY HUMAN SERVICES  
AGENCY v. ASHLEY M. et al.**

**(Not for Publication)**

The orders are affirmed.

RAYE, J.

We concur:    Scotland, P.J.

Morrison, J.

**C042781      In re DAVID L.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. BONNIE S.**

**(Not for Publication)**

The orders selecting guardianship as the permanent plan are reversed, and the matter is remanded for the limited purpose of determining whether DHHS complied with the notice provisions of ICWA and whether ICWA applies in this case.

If, after proper inquiry, the juvenile court determines that the tribe or BIA was properly noticed and there either was no response or the tribe or BIA determined that the minor is not an Indian child, the court shall reinstate the orders. If notice was not given, the juvenile court shall order DHHS to comply promptly with the notice provisions of ICWA and, if there is no response or if the tribe or BIA determines the minor is not an Indian child, the court shall reinstate the orders. However, if the tribe or BIA determines the minor is an Indian child or if the information is presented to the juvenile court that affirmatively indicates the minor is an Indian child as defined by ICWA and the court determines ICWA applies to this case, the juvenile court shall conduct a new section 366.26 hearing in conformance with all the provisions of the ICWA.

SCOTLAND, P.J.

We concur:    Blease, J.

Davis, J.

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**September 25, 2003**

- C039736      THE PEOPLE v. WESTON      (Not for Publication)**  
The judgment is affirmed.  
KOLKEY, J.  
We concur:    Blease, Acting P.J.  
                 Nicholson, J.
- C041462      THE PEOPLE v. STARNES II      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur:    Blease, Acting P.J.  
                 Davis, J.
- C033353      MORRISS v. SOUTHERN PACIFIC TRANSPORTATION COMPANY      (Not for Publication)**  
The order granting new trial is reversed and the matter remanded to the trial court for further proceedings consistent with our opinion. The parties are to bear their own costs on appeal.  
HULL, J.  
We concur:    Raye, Acting P.J.  
                 Robie, J.
- C038951      BANKS v. PEREZ      (Not for Publication)**  
The judgment is affirmed. Perez shall recover his costs on appeal. (Cal. Rules of Court, rule 27(a)(1).)  
ROBIE, J.  
We concur:    Scotland, P.J.  
                 Blease, J.
- C041012      COLLA et al. v. WENTLAND et al.      (Not for Publication)**  
**C041728      COLLA et al. v. WENTLAND et al.      (Not for Publication)**  
The judgment is affirmed. Plaintiffs shall recover costs on appeal.  
RAYE, J.  
We concur:    Blease, Acting P.J.  
                 Davis, J.
- C041036      STANLEY v. CALIFORNIA STATE LOTTERY COMMISSION      (Certified for Publication)**  
The order awarding attorney fees is reversed. The Lottery Commission shall recover its costs on appeal. (Rule 27(a), Cal. Rules of Court)  
KOLKEY, J.  
We concur:    Blease, Acting P.J.  
                 Raye, J.

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**September 25, 2003, continued**

**C041083      STONE v. TRIMM'S SCAFFOLDING      (Not for Publication)**

The judgment is reversed. The court is directed to grant plaintiff's motion to correct the filing date of the complaint nunc pro tunc to June 21, 2001. Plaintiff shall recover his costs on appeal. (Cal. Rules of Court, rule 27 (a).)

NICHOLSON, Acting P.J.

We concur: RAYE, J.  
Hull, J.

**C042311      FRIENDS OF FIVE LAKES et al. v. COUNTY OF PLACER et al. and  
CALDWELL      (Not for Publication)**

The judgment is affirmed.

Scotland, P.J.

We concur: Morrison, J.  
Hull, J.

**September 26, 2003**

C038839	RACICOT v. CALFARM INSURANCE COMPANY
C039769	RACICOT v. CALFARM INSURANCE COMPANY
C040590	RACICOT v. CALFARM INSURANCE COMPANY

**(Not for Publication)**

The judgment is reversed and the matter is remanded for retrial. CalFarm is awarded its costs on appeal. (Cal. Rules of Court, rule 27 (a) (1).)

KOLKEY, J.

We concur:     Blease, Acting P.J.  
                      Robie, J.

**C042373**      **NG AND TROPEANO, INC. et al. v. CHOI et al.**

**(Not for Publication)**

To the extent that the judgment requires defendants David Choi and Ann Choi to remove the two speed bumps (referred to by the court and the parties as speed bumps “B” and “C”) from the easement, it is affirmed. Except as so stated, The judgment is reversed.

The parties shall bear their own costs on appeal.

KOLKEY, J.

We concur:     Blease, Acting P.J.  
                      Robie, J.

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**September 26, 2003, continued**

**C042508      THE PEOPLE v. MCCHRISTIAN**

BY THE COURT:

Appellant's motion to recall the remittitur is granted. The remittitur issued on September 9, 2003, is ordered recalled, and the trial court clerk is directed to return the original remittitur to this court. The opinion of this court filed on July 9, 2003, and submission of the case are vacated due to the defendant's failure to receive a complete copy of the opinion. The appeal is reinstated.

Upon receipt of the original remittitur from the trial court, the cause will be resubmitted, and the clerk of this court is directed to refile the opinion in the above matter.

SCOTLAND, P.J.